

October 15, 2008

TO: Linda Holloway

FROM: Teresa Parsons  
Director's Review Program Supervisor

SUBJECT: Linda Holloway v. Department of Licensing (DOL)  
Allocation Review Request ALLO-07-089

On October 1, 2008, I conducted a Director's review conference at the Department of Personnel, 2828 Capitol Boulevard, Olympia, Washington, concerning the allocation of your position. In addition to you, the following individuals were present at the Director's review conference: Your supervisor at the time of the request, Customer Service Specialist 3 Georgia Blair; Hearings Administrator Craig Nelson; Classification and Pay Specialist Shelby Krismer Harada; and Human Resource Services Manager Diane Christie.

### **Director's Determination**

This position review was based on the work performed for the six-month period prior to May 17, 2007. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Customer Service Specialist 2 classification.

### **Background**

On May 17, 2007, you submitted a Position Review Request (PRR) to DOL's Human Resources Department, requesting that your Customer Service Specialist 2 position be reallocated to a higher job classification. On September 12, 2007, Classification and Pay Specialist Shelby Krismer Harada determined the Customer Service Specialist 2 (CSS 2) classification best fit the duties and responsibilities assigned to your position, #240-1905.

On October 9, 2007, the Department of Personnel received your request for a Director's review of DOL's allocation determination.

The following summarizes your perspective as well as your employer's:

### **Summary of Ms. Holloway's Perspective**

You assert you are responsible for independently processing and conducting administrative reviews prompted from drivers appealing DOL's action to withhold driving privileges. Based on a change in state law in 2005, you assert DOL has now been mandated to conduct these administrative reviews as requested by drivers who lose driving privileges as a result of a conviction by the court. In performing your duties, you contend you retrieve documents from DOL's imaging system, put together a file, review the documents to ensure the information is accurate, and review records from court dockets and communicate with court staff when necessary. After reviewing each record, you assert you issue a decision upholding DOL's action to withhold privileges or modifying or dismissing DOL's action in the event DOL's records are inconsistent with a court's decision.

In addition, you assert you have signature authority to alter a driving record, based on the information you discover through the review process. You contend your position requires expert level knowledge in identification and interpretation of driving records and coding errors, as well as an understanding of the penalties for specific driving offenses. You contend much of your work is similar to that of a Hearings Examiner, though you do not believe that is the appropriate classification for your position. Based on the duties and level of responsibility assigned to your position, you believe your position should be reallocated to a higher classification.

### **Summary of DOL's Reasoning**

DOL acknowledges the majority of your work involves conducting administrative reviews for drivers contesting DOL's actions to withhold driving privileges, resulting from court convictions. DOL also recognizes your knowledge of the system and your understanding of the appropriate actions for specific driving-related convictions. However, DOL asserts the purpose of the administrative review, as indicated by RCW 46.20.245, is to allow drivers to challenge pending actions by DOL on two specific issues: 1) whether DOL's records correctly identify the driver and 2) whether the information DOL received from the court accurately describes the action taken by the court.

While DOL researched other job classifications, DOL asserts the administrative reviews you perform at the request of drivers appealing a pending action are consistent with the CCS 2 duties of resolving complaints and responding to inquiries about a driver's record. For example, DOL contends you perform a review of existing information entered into DOL's system, resulting from a court conviction; verify the information is correct; and follow up on any discrepancies to ensure DOL's action is consistent with the court's decision. DOL asserts

your position is then tasked with providing a written response of the results of your review to the requestor. DOL asserts the department has always responded to similar inquiries from drivers losing such privileges but states the law now requires that DOL process such requests. Based on the available job classifications, DOL believes the CCS 2 best describes the duties assigned to your position.

### **Rationale for Director's Determination**

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Your position is assigned to the Hearings & Interviews section within DOL. The organizational chart indicates that you report to Customer Service Specialist 3 Georgia Blair, who reports to Customer Service Specialist 4 Rita Nucciarone. Ms. Nucciarone reports to Craig Nelson, Hearings Administrator (Exhibit D).

On the Position Review Request (PRR), you describe your position's purpose as follows (Exhibit B-2):

My position independently processes and conducts Administrative reviews for drivers contesting the Department's action to withhold the driving privileges based on court convictions. This includes DUI convictions, CDL Disqualifications, judgments, reckless driving, Minor in possession, Intermediate license suspensions, SR22 insurance cancellations and other convictions requiring action by the department.

My position receives and processes the records for hearing requests to determine eligibility for the following actions: Social Security, CDL positive drug/alcohol. Backup for numerous desks within Hearings unit.

The majority of your job duties, as described on the PRR, relate to the administrative review process (75%). Your position reviews documents received by DOL from the court or other agencies that impact an individual's driving privileges. In addition to the court convictions listed in your position's purpose, you state that administrative reviews may also stem from violations relating to Habitual Traffic Offenders (HTO). Besides reviewing all of the documents forwarded to DOL, you indicate you also consider documentary evidence and information submitted by the court, driver, and/or the driver's attorney. You further indicate that you provide a written response of the results of the Administrative review and correct

driving records to reflect the proper action, if the information in DOL's record does not reflect the action taken by the court.

During the Director's review conference, you explained that your role in reviewing the documentation is to verify that the information in DOL's records is correct, based on information from the court. The actual conviction or action taken by the court is reflected in the court's decision. You then compare the court's record with DOL's record to make sure an error did not occur during the transfer of information. If you find discrepancies, you will verify the information in the court docket or contact the court if you have specific questions or find an error in the court's record.

You may also follow up with the driver or driver's attorney to verify information submitted by the driver. Similarly, you work with other DOL units such as Mandatory Suspensions, Record Corrections, or Reinstatements, to point out or adjust errors in a particular driving record. These duties are consistent with the intent of the administrative review process, as described on the Request for Administrative Review Form and the Administrative Review Questions & Answers document (Exhibits C-16 and 17). Both documents emphasize the following issues, which are the only two issues considered in the administrative review:

- Whether DOL's records correctly identify the individual;
- Whether the information received from the court or other agency accurately describes the action taken.

The above points are also consistent with RCW 46.20.245(a), which states that an administrative review "shall consist solely of an internal review of documents and records submitted or available to the department, unless the person requests an interview before the department . . ." (Exhibit C-28). During the Director's review conference, both parties agreed that your position has the responsibility for gathering the relevant documents, verifying the information is correct, and performing the internal review of documents. However, when requested, telephone interviews are conducted by Mr. Nelson, as the Hearings Administrator. The written responses you provide indicating the results of an administrative review are limited to the two factors stated above (Exhibit B-5). The decisions you make regarding administrative reviews and any alterations to driving records are consistent with decisions already made by the court or other entity. Your position is responsible for ensuring that DOL's action reflects the court's decision. Within those parameters, you review the documentation and driving record to ensure the driver license penalties are consistent with the administrative action or conviction, as detailed in a chart created by DOL (Exhibit B-4-3).

When comparing the assignment of work and level of responsibility to the available class specifications, the following standards are primary considerations:

- a) Category concept (if one exists).
- b) Definition or basic function of the class.
- c) Distinguishing characteristics of a class.

- d) Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question.

Besides the Customer Service Specialist class series, DOL reviewed and considered a number of classes, including the following: Secretary class series, Legal Secretary 2, Administrative Assistant class series, Office Assistant class series, Hearings Coordinator, Hearings Scheduler, and Paralegal classes (Exhibits C-33 through 51). The class specifications outside of the state's classification plan are not classes that can be considered. When comparing your position to the available job classes, I considered your duties and responsibilities, as well as where your position fit within the organization.

I did not find that your position fit the Secretary classes because you do not perform routine secretarial duties such as scheduling meetings, transcribing meeting minutes, or maintaining your supervisor's calendar. While there is a legal and technical element to your position due to the court dockets and driving records you review for verification, your position does not report to an attorney or function as the principal legal secretary to an Administrative Law Judge or Assistant Attorney General. Therefore, the Legal Secretary 2 class is not the appropriate fit. Similarly, you do not report to a professional administrative supervisor or coordinate your supervisor's work, reflective of the Administrative Assistant classes. While some of your duties may be considered clerical in nature, your position is assigned to a customer service unit within the Hearings & Interviews section, and you primarily deal with the administrative review process, with clerical duties being incidental to the overall work. As a result, the Office Assistant classes are not the best fit. Finally, the Hearings Coordinator and Hearings Scheduler do not provide the best fit because the primary focus of these positions is to coordinate the hearing process and schedule hearings.

During the Director's review conference, you asked that I consider the Licensing Hearings Specialist class (Exhibit B-8). The definition for the Licensing Hearings Specialist reads as follows:

Conducts group and individual driver improvement and financial responsibility interviews. Presides over formal administrative hearings involving legal format issuance of findings of fact and conclusions of law directly appealable to Superior Court in the following areas: implied consent, administrative per se, financial responsibility. Presides over other hearings such as: habitual traffic offender law, vehicle registration cancellation, and occupational driver licenses.

Your position has not been assigned the responsibility of presiding over formal administrative hearings. Instead, your position has been assigned the responsibility of performing administrative reviews of internal documents, though I recognize you may review court dockets to affirm DOL records reflect the correct information. Further, when interviews are requested, the Hearings Administrator conducts the interviews. In addition, the written results of the administrative reviews you perform are limited to specific criteria, as opposed to findings of fact and conclusions of law. Positions assigned to the Licensing Hearings Specialist class create

written findings of fact, conclusions of law, and orders that incorporate all evidence, testimony, and arguments presented. These positions also provide a legal reasoning that forms the basis for the conclusion. Your position has not been assigned the degree of responsibility consistent with the Licensing Hearings Specialist classification.

The class series concept for Customer Service Specialist classes reads as follows:

Positions in this series provide assistance and problem resolution to agency clients/customers and are located in a designated customer service program. The intent of the series is to assist clients/customers in identifying agency processes and procedures, resolving client/customer problems related to agency programs and interpreting agency related laws, policies and procedures. Positions at all levels may be assigned lead or supervisory responsibility over lower level staff.

This series is not clerical in nature. Clerical support duties are incidental to the total work assignment (less than 10%). Clerical support, for the purposes of this series, includes tasks such as maintaining filing systems, maintaining logs, updating computer or manual data systems, office and telephone reception, completing office forms, compiling and completing recurrent reports, performing routine typing, copy work and preparing mailings.

The definition for the Customer Service Specialist 2 class states the following:

Independently resolves complaints, inquiries and client/customer service problems while maintaining appropriate confidentiality. Provides agency interpretation and applies knowledge of laws, regulations, and processes in the resolution of inquiries, complaints and problems.

The duties assigned to your position fit within the class series concept, definition, and distinguishing characteristics of the Customer Service Specialist 2 class.

While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification. Consistent with the examples listed in the Customer Service Specialist 2 class specification, your position independently resolves client/customer problems, identifies the issues at hand, and determines the procedural steps necessary to bring resolution. In this case, you respond to requests for administrative reviews by reviewing DOL's records to ensure the records reflect the action prompting DOL's action, often a court action. You also ensure DOL's action is consistent with the penalties corresponding to a particular driving offense or action. Further, you work with other DOL programs, access court records and/or contact the court to resolve discrepancies impacting a driving record. After reviewing all of the pertinent documentation, you communicate the results of an administrative review to the client/customer (requestor) by issuing a letter addressing the two criteria mandated by RCW 46.20.245. Based on the

specific criteria, your letter will affirm the record is correct and DOL will move forward with the impending action or changes to the record will result in a modification or dismissal of the impending action. Throughout the administrative review process, you are expected to maintain the integrity of the data. Further, DOL has authorized you to modify driving records when necessary to reflect the appropriate action.

It is clear you have a strong working knowledge of the laws and regulations relating to the administrative review process, also characteristic of the Customer Service Specialist 2 class. A position's allocation, however, is not based on an evaluation of performance or an individual's ability to perform higher-level work. Rather, it is based on the majority of work assigned to a position. Based on the duties and responsibilities assigned to your position, the Customer Service Specialist 2 classification best describes your position, #240-1905.

### **Appeal Rights**

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board . . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

c:     Shelby Krismer Harada, DOL  
       Lisa Skriletz, DOP

Enclosure: List of Exhibits